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DEPARTMENT OF LABOUR, CANADA

HON. W. A. GORDON — MINISTER OF LABOUR

COMBINES INVESTIGATION ACT

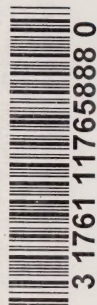
INVESTIGATION INTO
AN ALLEGED COMBINE OF

TOBACCO MANUFACTURERS

AND OTHER BUYERS OF RAW LEAF TOBACCO
IN THE PROVINCE OF ONTARIO

REPORT

March 4, 1933



DEPARTMENT OF LABOUR, CANADA

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COMPANIES INVESTIGATION ACT

INVESTIGATION INTO

COMPANIES ACT



TOBACCO MANUFACTURERS

AND OTHERS IN THE TOBACCO INDUSTRY
IN THE PROVINCE OF ONTARIO

REPORT

MAY 1, 1978

(Copy)

Ottawa, March 4, 1933

Honourable W. A. Gordon,
Minister of Labour,
Ottawa.

Sir:

The attached report of an investigation under the Combines Investigation Act into an alleged combine of Canadian tobacco manufacturers and other buyers of raw leaf tobacco in the province of Ontario has been prepared by the Honourable Donald Sutherland of Ingersoll, Ontario, who conducted the investigation for this Department.

I am in accord with the statements of fact expressed in the attached report and substantially in accord with its opinions. Two principal points made in the report relate to "holding off the market" and to "buying under cover". The first of these two deals with the delay which occurred in 1932 in the commencement of tobacco buying operations, as compared to previous years. Each year buyers have waited to commence their purchasing from the growers after the largest buyer, the Imperial Tobacco Company of Canada, had begun to buy. It has not been found that this delay was due to a combination among the buyers.

The point of "buying under cover" refers to the buying by the Imperial Tobacco Company of Canada of 3,500,000 pounds of flue-cured tobacco from the 1932 crop for the Imperial Tobacco Company of Great Britain and Ireland. The disadvantages to the growers in this supposedly temporary arrangement are manifest but there is nothing in our legislation which would restrain a purchaser in the United Kingdom from making its purchases through a related company. We are anxious to sell our tobacco to the British market, and it would be a decided disadvantage to Canadian growers if restrictions were set up here which might have the effect of turning British buyers to other markets. After all, the Canadian product is not indispensable to the British buyer, even though there has been substantial improvement in quality in recent years.

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In his report Mr. Sutherland emphasizes the desirability of more orderly methods of marketing on the part of the growers. Among recent evidences of developments in this direction should be noted the interest which has been taken in the problem by the Minister of Agriculture for Ontario, who has made offers of marketing assistance to the growers. Marketing problems in connection with the tobacco-growing industry are continuing to receive the attention of the provincial authorities.

Reviewing the evidence in this case, I cannot but feel that the growers have been operating at a decided disadvantage dealing individually, as most of them have been, with a corporation which has such bargaining strength as the Imperial Tobacco Company of Canada, particularly when the latter company is buying not only for itself but for the Imperial Tobacco Company of Great Britain and Ireland as well. The evidence which has been obtained, however, is not sufficient, in my opinion, to establish the existence of a combine within the meaning of the Combines Investigation Act; nor in my opinion is it sufficient to justify any more extensive investigation than has been made.

If you conclude that no further inquiry is to be made, it will be necessary, under Section 12 of the statute, to notify the applicants of your decision. I attach a draft letter to the applicants which would serve this purpose.

Yours faithfully,

(Sgd.) F. A. McGregor,

Registrar,
Combines Investigation Act.

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Ingersoll, March 2, 1933

F. A. McGregor, Esq.,
Registrar, Combines Investigation Act,
Department of Labour,
Ottawa, Ontario.

Sir:

Acting under instructions contained in your letter of November 26th, 1932, as authorized by the Minister of Labour, Honourable W. A. Gordon, I have made an inquiry under the Combines Investigation Act into charges and allegations of a combine on the part of tobacco manufacturers and other buyers of leaf tobacco as grown in the counties of Norfolk, Oxford and Elgin in the Province of Ontario. It was represented by the applicants for an inquiry that the aforesaid combine had the effect of preventing competitive bidding among buyers, and that the prices paid to tobacco growers had consequently been unreasonably depressed.

The decrease in the average price paid for the 1931 crop of flue tobacco, of more than eleven cents per pound below that of the previous year, followed by a further decrease of over four cents per pound in 1932, the apparently unwarranted delay of several weeks in beginning buying operations that was observed by all buyers, and the similarity which characterized the actions of the buyers while prices were rapidly reduced, by approximately fifty per cent in the space of two weeks, were the chief factors which led to a formal application for an inquiry under the Combines Investigation Act, the result of which is embodied in this report.

In the course of this inquiry practically all the tobacco processing plants in Ontario have been visited, the managers interviewed, and the methods of weighing, grading, and processing inquired into. Numerous interviews were held with tobacco growers in various parts of Western Ontario. A number of the growers expressed reluctance to being quoted at all, while others were satisfied to have their statements submitted for the use of the Registrar and the Minister of Labour.

The following application was received by the Registrar of the Combines Investigation Act, Department of Labour, Ottawa, on November 7, 1932:

To the Registrar of the Combines Investigation Act,
Ottawa,
Ontario

We, the undersigned, are of the opinion that a combine exists and hereby apply to you for an investigation of such combine.

We are of the opinion that the Imperial Tobacco Company, Limited, Canadian Leaf Tobacco Company, Limited, and MacDonald Tobacco Company, Limited, and other manufacturers and dealers in raw tobacco in this district are combined for the purpose of regulating, controlling, preventing and lessening competition in or substantially controlling the purchase and fixing the price for the purchase of raw tobacco as grown in the counties of Norfolk, Oxford and Elgin, in the Province of Ontario, as more particularly set out in our declarations hereto attached, which combine will operate and is operating to the detriment of the interest of the public and the producers and others interested in growing tobacco in this district.

We believe that there is a tacit contract or agreement or combination among the purchasers of tobacco as to the price they will pay to the producers, and agreeing that they will not compete with each other in the purchase of any crop from any individual grower.

Dated at Tillsonburg, Ontario, this fourth day of November, A. D. 1932.

Witness:
(Sgd.)
Donald J. Gibson

(Sgd.) Wm. Sutch
C. Maxwell Luke
Vernon McDonald
C. M. Newman
J. T. Compeau
Wm. H. Rohrer

The above application was accompanied by the following statutory declaration, signed by each of the applicants:

DOMINION OF CANADA)	IN THE MATTER OF Combine of
PROVINCE OF ONTARIO)	Tobacco buyers in Oxford,
COUNTY OF OXFORD)	Norfolk and Elgin Counties,
)	Ontario
TO WIT:)	

I,of the Town of Tillsonburg, in the County of Oxford, ..(Occupation)..., do solemnly declare:

1. My address is Tillsonburg, Ontario.
2. I am one of the applicants who have signed the hereto attached application to the Registrar of the Combines Investigation Act. I have authorized William Sutch, an applicant at Tillsonburg, Ontario, to represent me for purpose of receiving any communication pursuant to the Combines Investigation Act.
3. I am advised and verily believe that a combine exists between the Imperial Tobacco Company, Limited, Canadian Leaf Tobacco Company, Limited, and MacDonald Tobacco Company, Limited, and other manufacturers and dealers in raw tobacco interested in purchasing the 1932 crop of tobacco grown in Ontario, particularly the counties of Oxford, Norfolk and Elgin. I am told and believe that the buyers representing the several interested companies met together and , discussed what price would be paid for tobacco, and arranging and agreeing among themselves to not compete in the purchase of any crop of any individual, and allotting among themselves the various crops of the individual growers so that the grower would be forced to sell to the buyer to whom he was so allotted without having any chance to get offers from the other buyers in competition.
4. I am advised that in a number of cases growers have been told by the buyer that if they did not accept the offer made for their crop, they would have no chance to sell the crop and would be later obliged to take a smaller price from that buyer, showing that there must be some agreement or understanding among the buyers that there would be no competitive buying of crops from growers.
5. I believe this combine is intended to operate and is

operating as a means of forcing growers to sell their crops of tobacco for less than it is honestly worth, and would normally be sold for under proper competitive buying. Crops of equal value are selling at widely different prices, and in some cases the buyers are taking advantage of the situation so as to actually buy crops for less than cost of production.

6. I believe the combine is further shown to exist by the fact that for several weeks after the tobacco crop was harvested, no buyers approached the growers with offers to purchase and the several buyers all started out buying crops at the same time, no two buyers offering to buy the same crop from individual growers.
7. I believe the combine is for the purpose of forcing the growers to sell their tobacco at ridiculously low prices so that substantial profits be reaped by the buyers, and the organizations they represent at the expense of the growers of tobacco in Ontario.
8. I verily believe the above statements to be true statements of fact and that there should be a proper investigation made under the Combines Investigation Act, Chapter 26, Revised Statutes of Canada, 1927.
9. I am a Canadian residing in Canada, and am of the full age of twenty-one years.

AND I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the Canada Evidence Act.

DECLARED before me at the)
Town of Tillsonburg in the)
County of Oxford this 4th) (Signature of Applicant)
day of November, A.D. 1932)

(Sgd.) Donald J. Gibson,
A Commissioner, etc.

On the same date, November 7, 1932, the following application was received by the Registrar of the Combines Investigation Act, which was not accompanied by a statutory declaration:

Kingsville November 5, 1932

To the Minister of Labour of the Dominion of Canada

We, the undersigned, demand an immediate investigation re the small price paid to growers of tobacco and the excessive prices charged by the different tobacco manufacturers for their products being sold in Canada.

All of the following being interested and bona fide residents of Canada.

(Sgd.) A. E. Vickers
 G. Giverns
 William Wilson
 W. J. G. Minson
 Judson Scratch
 W. J. Platten

In addition, letters and telegrams from different points throughout the province were received by the Prime Minister, Members of the Government and Members of Parliament. Two of these telegrams are included in the following:

Tillsonburg, Ont.,
October 28, 1932

Hon. R. B. Bennett,
Prime Minister,
Ottawa, Ont.

South Oxford and Oxford are now appealing to you for aid and protection in order to save the tobacco industry from ruin and to save scores of tobacco growers from going into liquidation. Stop. The market has opened at 24 cents high with but a few getting it. Stop. We appeal to you to look into this matter and to save the situation by taking over the present crop or by placing a prohibitive duty on foreign tobaccos coming into this country or take some such immediate measure that will save the situation. Stop. We are firmly convinced that a combine exists.

The Board of Trade of Tillsonburg
in behalf of the Tobacco Growers

Tillsonburg, Ont.,
October 31, 1932

R. B. Bennett,
Prime Minister,
Ottawa, Ont.

Tobacco growers are panicky burning their crops
three crops burned last night buyers reduced the price to
sixteen cents high for top crops holding a meeting at
Arlington Hotel tonight to reduce further a ring is in
operation cannot you do something.

J. A. McCabe

Upon receipt of the application from Tillsonburg
submitted in accordance with the provisions of the Combines
Investigation Act, the Minister of Labour, the Honourable
W. A. Gordon, ordered an inquiry into charges of a combine
on the part of manufacturers and other buyers of raw leaf
tobacco in the Province of Ontario.

EXPANSION OF THE TOBACCO INDUSTRY

The growing of tobacco in Canada dates back to an early period when United Empire Loyalists, who settled in Canada after the American Revolution, brought tobacco seed with them from the United States. Records show that there were shipments of tobacco from Essex County, Ontario, shortly after the war of 1812. In 1871, 399,870 pounds of tobacco were grown in Ontario, and 1,195,345 pounds in Quebec. Production continued to expand slowly until in 1901 a total of 11,267,000 pounds was grown in Canada, while in 1911 the crop amounted to 17,632,000 pounds. In 1931, the production of tobacco in Canada reached the figure of 51,300,000 pounds, of which Ontario contributed 44,770,000 pounds.

Various types of tobacco have been successfully grown in Ontario. In 1927 and 1928, the Dark Fire and Burley varieties constituted the main part of the crop. Since then, the flue-cured, otherwise known as Virginia or Bright Southern, tobacco has been in the greatest demand. This type is used chiefly in the manufacture of cigarettes and the general increase in the consumption of cigarettes is accountable, to a large extent, for the increase in the demand for the flue-cured tobacco.

The soil in what is known as the Norfolk district of Ontario is peculiarly adapted to the growing of flue-cured tobacco, and to this district, sometimes termed the New Belt, may be attributed the marked increase, in recent years, in the production of tobacco in Ontario. For some years past the acreage devoted to flue-cured tobacco has been steadily increased. 1929 and 1930 were extremely dry years so that the increase in acreage was not reflected in the total yield. 1931 was an almost perfect growing season, which, combined with a further increase in acreage, resulted in an increase in the total yield of about one hundred per cent. The total yields of Ontario flue-cured tobacco for the above mentioned years are as follows: 1929, 10,500,000 pounds; 1930, 12,396,400 pounds; 1931, 24,500,000 pounds. As a result of the size of the crop there was a small surplus of low grade tobacco at the end of the buying season, and prices for the year were down, approximately twenty-five per cent from those of the preceding year. In 1932 growing conditions were again ideal and there was another slight increase in acreage. The result was a crop of first class quality and a total yield which is estimated at about 29,000,000 pounds.

At this stage prices of flue-cured tobacco in Ontario were reaching a level at which the British market was becoming interested. In the three years prior to 1932 the United Kingdom is said to have increased its imports of Ontario flue-cured tobacco from 500,000 pounds to 5,500,000 pounds. This increase was due to the reduced price and to the preference granted on the British market to Canadian tobacco over that imported from countries outside the Empire. From the Canadian point of view the United Kingdom is the greatest present and potential market for raw leaf tobacco. Although the domestic market constitutes at present the principal outlet for Canadian leaf, the stabilizing effect of an export market appears necessary.

SCOPE OF THE INQUIRY

The bulk of the flue-cured tobacco crop of Ontario is grown in the counties of Norfolk, Oxford and Elgin, in which district the application for an investigation originated. In view of the fact that the aforesaid application and all charges and complaints against the purchasers of tobacco were limited to the flue-cured variety, this inquiry has been confined, for the most part, to that type of tobacco.

As the chief complaint was that of eliminating competition among buyers, and depressing prices to growers, one of the first steps taken was to request those who had made application for an investigation to meet for the purpose of discussing any information they might have at their disposal. This meeting took place in the Council Chamber at Tillsonburg on Thursday, December 15th, at which time there were present all who had signed the application, also a number of others who had made complaints.

While all were most emphatic in expressing their belief that a combine existed, as alleged in their application, and referred to many suspicious circumstances in connection with the buyers and those they represented, both before and after the market opened, no evidence of a direct nature was submitted. Nearly all were of the opinion that the order issued for an inquiry and investigation under the Combines Investigation Act by the Federal Minister of Labour, together with the prompt assurance given the tobacco growers by the Honourable T. L. Kennedy, Minister of Agriculture for Ontario, of assistance, financial and otherwise, in organizing a growers' co-operative association for the establishment of a grading and processing plant to enable the growers to hold their crops for better prices, was responsible for the substantial increase in prices that had almost immediately followed these announcements.

In the discussion of complaints privately there was displayed an evident reluctance on the part of the growers to become identified with the inquiry lest such action might adversely affect the disposal of their crops in the future. This attitude, on the part of many of the growers, was so pronounced that it added greatly to the difficulties encountered in ascertaining the actual facts.

THE HISTORY OF THE

The first part of the history of the world is the history of the human race. It is a history of the progress of the human mind, of the growth of the human soul, of the development of the human spirit. It is a history of the human race, of the human mind, of the human soul, of the human spirit. It is a history of the human race, of the human mind, of the human soul, of the human spirit.

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SITUATION PRECEDING APPLICATION FOR INVESTIGATION

Information obtained during the course of this inquiry as to certain conditions which prevailed before application was made for an investigation may convey some idea of the feeling of suspicion which was general and widespread among tobacco growers at that time.

The rapid growth and development of the tobacco industry in Ontario has, apparently, far outstripped the obsolete and antiquated method of marketing tobacco, still practised under what is termed the "barn buying" system. This method was employed in a number of countries when the tobacco industry was in its primitive stage in those countries. While tobacco growing was a comparatively minor industry in Canada, and the total production was used for domestic purposes by one or two companies, the system fulfilled all requirements. In recent years the barn buying method of marketing tobacco has outlived its usefulness and has proved unsatisfactory to growers and to the majority of purchasers. In the words of an official of one Canadian tobacco company, "No other system lends itself to so much malpractice". Under the barn buying method, as practised in Ontario, the leaf purchasing organizations of the various companies maintain staffs of trained buyers, or field men as they are sometimes called, who inspect the crops of the individual growers several times during the growing season, during harvesting and while the crop is being cured. When buying commences, the buyers have these records to assist them in estimating the quality of the crop when stored in the barns. When purchasing tobacco in this way the usual procedure is to offer the grower a price per pound for his entire crop with the stipulation that all undesirable tobacco, green, black, burnt, frosted or otherwise damaged, must be excluded. Buyers frequently make an offer with the provision that a lower price be paid for tobacco of inferior grade that is contained in the crop.

One company in Ontario buys a large part of its tobacco under contract. (See section of this report re Consolidated Leaf Tobacco Company, Limited.) The grower contracts to sell his tobacco to this company at prices listed on the contract which are based on the grading of the crop as determined by the company. A relatively small proportion of the Ontario crop is handled in this way.

The accepted custom for a number of years has been that all the buyers waited for one of the largest companies

to open the market. In 1931 the market was opened by the Imperial Tobacco Company of Canada on October 6th, and in 1930 the same company opened the market on the same date, October 6th. The opening price in 1930 was forty cents per pound, and in 1931 thirty cents per pound. These were top prices, offered for the best quality of tobacco, and, as would be expected, the best crops were bought first. Should an offer be refused, the almost invariable practice, up to 1932, has been that succeeding offers for that crop were lower than the original offer. This practice was innovated by the Imperial Tobacco Company of Canada, and was used as, what has been termed, a big stick to keep the growers in a position whereby that company could more readily obtain the tobacco for its requirements and thus shorten the period of time spent in purchasing tobacco. Other companies have taken advantage of the effect produced by this system. There appears to have been a fairly common practice among buyers of informing the growers that "the offer was off as soon as the buyer left the premises". This threat was usually carried out, and became so well known among growers that it was generally deemed advisable to accept the first offer made.

The opening of the Ontario market for the purchase of the 1932 crop of flue-cured tobacco took place on October 26th, about three weeks later than was the case in the two preceding years. Improved methods of growing, particularly the process of priming the leaves instead of the practice followed in previous years of cutting or splitting the stalk, resulted in the crop being ready for sale ten days to two weeks earlier than in the past. (This estimate was made by Mr. H. P. Buell of the Imperial Tobacco Company of Canada in a letter to Mr. R. C. Harrison of the British-American Tobacco Company.) This tended to lengthen the period between the completion of harvesting and the commencement of buying to more than a month. No explanation or reason for the delay was advanced to the growers by the company which apparently dominated the market. As the days passed the growers quite naturally became very anxious,

The position of the tobacco growers can be readily understood. The successful achievement of their hopes and labours had been accomplished in harvesting and curing a crop which, in point of quality and yield, was even beyond their expectations. Costs for buildings, equipment and labour had been heavy, and credit had, in many instances, been used to the limit. The relatively low prices paid for the 1931 crop had caused considerable dissatisfaction in that year but the grower had no reason to believe that prices

in 1932 would be any lower. In fact, due to the short crop in the United States, the fine quality of the Ontario crop, and the increasing interest that English manufacturers were displaying in Canadian tobacco, the growers were rather optimistic as to the disposal of the 1932 crop. The opening of the market was thus awaited with the keenest interest. The customary date was reached and passed, the days lengthened into weeks, and there was still no sign of the market opening. The "holding off" of the opening of the market was a severe strain on the morale of the growers.

During this period one of the hotels in the town of Tillsonburg, situated on the border of the Norfolk, Oxford, Elgin tobacco district, became the headquarters of the representatives and buyers of most of the tobacco companies in Canada. Tobacco interests in the United Kingdom and the United States were also represented. In all, about thirty of these men were registered at this hotel. With the long delay in opening the market this group became the centre of interest of the whole tobacco district. On October 26th the market was opened by the Imperial Tobacco Company of Canada with a top price of twenty-four cents, six cents below the top price of 1931. A few hours later the other companies began buying and there followed what appeared to the growers a competition in reducing prices. In no case was the top price of twenty-four cents, set by the Imperial Tobacco Company of Canada, exceeded by any other company and comparatively few crops were bought at this price. This also appears to be an unwritten law and practice of the trade. Within a few days the price was steadily and rapidly reduced, in many instances to less than half the opening price. The reduction continued to such an extent that by the first week of November the growers were becoming demoralized and some were ready to sell at almost any price. The buyers took advantage of the situation and some crops were bought at ridiculously low prices. The fact that, in comparatively few instances, did buyers for more than one company make offers for the crops of individual growers, lent colour to rumours that were rapidly spreading. Charges of a combine and collusion on the part of the buyers to depress prices were numerous and culminated in a formal application for an investigation.

HOLDING OFF THE MARKET

It is generally acknowledged by those engaged in the purchase and processing of tobacco in Canada, both for domestic purposes and for export, that the Imperial Tobacco Company of Canada dominates the market to the extent of fixing a date for its opening and setting the top price paid. From evidence obtained it appears that the Imperial Tobacco Company of Canada were mainly responsible for a delay of nearly three weeks beyond the usual time in opening the market for the purchase of the flue-cured tobacco crop of 1932. This delay caused much uneasiness and had a very disturbing effect upon growers of tobacco. Correspondence between the Imperial Tobacco Company of Canada and the Imperial Tobacco Company of Great Britain and Ireland shows that on September 23, 1932, an order was placed with the former company by the latter for the purchase of 1,000,000 pounds of flue-cured tobacco from the 1932 crop with the probability of an order for another 1,000,000 pounds the following week.

In a letter to Mr. Buell, Vice-President of the Imperial Tobacco Company of Canada, Mr. L. H. Reed, Manager of the Leaf Department of the Imperial Tobacco Company of Great Britain and Ireland, under date of November 16, 1932, confirmed the purchase on a commission basis of 3,500,000 pounds (green weight) of the Ontario flue-cured tobacco crop of 1932. In addition, during 1932, the Imperial Tobacco Company of Canada sold approximately 2,500,000 pounds of redried tobacco to the Imperial Tobacco Company of Great Britain and Ireland. This tobacco was taken from the 1931 crop. The correspondence shows conclusively that the Imperial Tobacco Company had instructions, before the usual time for opening the market, to purchase a substantial quantity of tobacco for the Imperial Tobacco Company of Great Britain and Ireland, yet the opening of the market was delayed.

Mr. Buell in a letter to Mr. Reed dated September 28, 1932, states,

"We have not set any special date for opening the market, but in all probability it will be within the next two weeks."

On October 18, 1932, Mr. Buell wrote to Mr. Reed making arrangements for Mr. T. L. Lea, Manager of the Ontario Leaf Department of the Imperial Tobacco Company of Canada, to meet Mr. J. R. Hutson, representative of the Leaf Department of the Imperial Tobacco Company of Great Britain and

Ireland at Hamilton, Ontario. He says, in part,

"they (Lea and Hutson) could very well spend a day or two in making a survey of the crop, and whether I am able to be there or not, I think they should begin buying operations not later than October 26th. Our Delhi organization will only be notified of these plans a day or two in advance."

A report of the Federal Trade Commission of the United States on the tobacco industry, dated December 11, 1920, contains the following under Section 7, page 58;

"According to the testimony of numerous tobacco producers, dealers, warehousemen, and buyers, as well as the correspondence of the large manufacturers and dealers, one of the most important causes of the decline in prices of leaf tobacco during the 1919-20 season was 'holding off' the market and buying 'under cover', indulged in by the large tobacco manufacturers. The effect of these practices varied, but was most apparent in those markets where the companies using the methods were important purchasers. As a general proposition, it is recognized by those experienced in the trade, that 'holding off' the market, even temporarily, by any concern which purchases a substantial percentage of the tobacco sold on that market, will have a direct effect on the prices being paid."

The term "holding off" the market is not applicable in Canada in precisely the same sense as used in the United States. Strictly speaking there is no market in Canada. The company making the first purchase, however, has come to be considered as opening the market, and the period of buying that follows is regarded as the market. When a grower has harvested his crop he awaits the arrival of a purchaser, and when a buyer appears there ensues a process of dickering as to price, with varying results, often influenced as was the case in 1932 by financial circumstances and the eagerness of the grower to make a sale. When asked for an explanation as to the delay until October 26th in opening the market, the Imperial Tobacco Company of Canada submitted the following, under date of February 2, 1933;

"In reply to your question, while we do not wish to seem argumentative yet so far as we know there is no market opening in the generally accepted sense of the word. However, if contracting the first purchase is to be considered as a market opening, we respectfully

submit that by reason of the fact that we have no knowledge of purchases made other than by ourselves we are not in a position to state when the market opened. For the past seven years our first purchases were made as follows:

1926	-	October	19th
1927	-	"	12th
1928	-	"	18th
1929	-	"	10th
1930	-	"	6th
1931	-	"	6th
1932	-	"	26th

There is no fixed date on which our first purchase is to be made in each year and we believe you will agree from the dates of purchases set out in the foregoing that there has been no undue delay in making our first purchase of the 1932 crop.

When we became aware that notwithstanding the advice given to farmers in our circular memorandum of March 18, 1932, the total production of flue-cured tobacco gave promise of being appreciably in excess of the total quantity produced in 1931, we had great anxiety as to what might be the outcome, knowing as we did at that time that we would not be justified ourselves in purchasing more than about 8,000,000 pounds of the total quantity. Our fear was that once our requirements were satisfied, the big remaining balance would be dumped on the market with the natural result that prices would decline appreciably, creating distress among the growers, and that the industry itself might suffer a serious reverse and setback.

We had been under negotiations with our British friends and saw a prospect of selling to them some quantity of our stock from previous crops, which in itself would naturally have permitted us to increase the quantity that we would then be able to purchase out of the 1932 crop. As the negotiations developed our British friends intimated that in addition to taking from us some of our older tobacco, they would also like us to purchase for them some out of the 1932 crop.

Substantially, the factors recited above were mainly responsible for delaying our purchasing until the 26th October."

In regard to the above the following extract from a letter, dated August 22, 1932, from Mr. Buell to Mr. R. C. Harrison, of the British-American Tobacco Company, addressed to London, England, may be quoted;

"I will be visiting the southern markets next week and the week following. I will make it a point to see Mr. Reed, and I hope that he will let me know if the buying of their Canadian requirements will be entrusted to us."

Mr. Buell's letter also confirms the early harvesting of the 1932 crop and the fact that the quality was more suitable for the English market than heretofore. He refers to orders placed by several independent English manufacturers with local Ontario dealers for their requirements from the 1932 crop.

Mr. H. A. Freeman, of Simcoe, former Manager of the Dominion Experimental Farm at Harrow, Ontario, and the Ontario Tobacco Plantations, Limited, and at present one of the largest tobacco growers in Ontario, stated in an interview on December 21st, at Simcoe;

"One week approximately before the Ontario tobacco market opened, a buyer from England arrived in the Norfolk district. This buyer, who represented Gallaghers' Limited, of Belfast, stated that he was prepared to take about 3,000,000 pounds of flue-cured tobacco at a price of twenty-five cents per pound. If, however, the market went down, he made it clear that he must protect himself as his company naturally was only prepared to pay the market price. He stated that his company would fill their requirements if it were necessary to pay thirty-five cents a pound."

Professor A. Leitch, of Guelph, Manager of the Windham Tobacco Plantations, Limited, said in the course of an interview on December 24th, that a representative of Gallaghers' Limited, of Belfast, stated before the opening of the market that he was in a position to take 2,400,000 pounds of the 1932 crop if the price did not go above twenty-five cents per pound. This quantity was taken by Gallaghers in 1931. The Windham Plantations had sold Gallaghers 1,700,000 pounds of tobacco to date (December 24th), with more to follow.

The following is taken from a letter from Gallaghers Limited, of Belfast, Ireland, to the Leamington Tobacco Sales Corporation, of Leamington, Ontario, dated September 7, 1932;

"We thank you for your letter of the 24th ult. and for your crop report. Indications from Prof. Leitch and others show the crops to be much brighter in colour but lighter in body. We are, therefore, looking forward with considerable interest to the type samples representing the crop which Mr. Lynch will be sending.

We may say now that we do not know whether the thin crop is going to suit us, and we also hasten to say that if competition is keen and prices high our buying is likely to be considerably curtailed.

You are aware that our outright purchase of last year landed here at around 38¢, which was around 1/9d, the exchange is now over 13% lower so that the price might exceed 2/- all grades which we are not prepared to pay. Another point is that with the thinner crop the loss in grading may possible be higher.

This position is not one that affects us only but manufacturers on this side as a whole. It is not an economic proposition, particularly in view of the low prices which prevailed in America last year to pay more than 2/2 a lb. for the best colonial tobacco, so that we do not believe that the competition will be as keen as you indicate.

Our position is that if we can get the right tobacco at prices not higher than our sterling average of last year we will be interested, and it is certainly our desire to buy concurrently, but we do not want you to be under any false impression as to our attitude."

The above letter confirms the statements made by Mr. Freeman and Professor Leitch. The low average price in Canada could not be attributed to the price buyers were prepared to pay in the United Kingdom. Processing, shipping, and insurance charges amount to approximately seven cents per pound.

The reference to the date of opening the market in 1926 by the Imperial Tobacco Company of Canada is

hardly applicable as a comparison to the date in 1932. The total production of flue-cured leaf in Canada in 1926 was only 4,331,000 pounds, while in 1932 it amounted to about 29,000,000 pounds.

The Ontario flue-cured tobacco industry had already developed and reached an export basis in 1931 when 5,423,028 pounds were exported to the United Kingdom. It is evident from the interest early displayed by the independent British manufacturers in the Ontario flue-cured crop of 1932 that the quality of the tobacco supplied them in 1931 had created a favourable impression, that they had kept in touch with a view to securing a quantity from the 1932 crop, and that they had made their arrangements accordingly.

That the Imperial Tobacco Company of Canada was conscious of its dominating position in the past and was anxious to maintain that position is manifested in the arrangement made with the Imperial Tobacco Company of Great Britain and Ireland to supply that company with their requirements from the 1932 crop. The delay in opening the market, and the concealment of the date when decided upon, even from the company's own organization at Delhi, Ontario, evinces a desire for secrecy for which no reasonable justification has been advanced. The rights of the tobacco growers with their crops in the barns, awaiting buyers for a month or more, had apparently been lost sight of, and it would appear that the object of the delay was to utterly demoralize them and make them submissive when afforded an opportunity of disposing of their crops.

BUYING UNDER COVER

Through their office at Richmond, Virginia, the Imperial Tobacco Company of Great Britain and Ireland gave instructions to the Imperial Tobacco Company of Canada for the purchase of flue-cured tobacco in 1932 as follows:

	Date Received	Amount
Original Order	September 22, 1932	1,000,000 lbs. 1932 Crop
First Increase	September 27, 1932	500,000 lbs. 1932 Crop 500,000 lbs. Matured
Second Increase	November 7, 1932	500,000 lbs. 1932 Crop
Third Increase	November 15, 1932	1,000,000 lbs. 1932 Crop 1,000,000 lbs. Matured

The total quantity of tobacco purchased by the Imperial Tobacco Company of Canada from the 1932 crop for the Imperial Tobacco Company of Great Britain and Ireland amounted to about 3,500,000 pounds. In addition, approximately 2,500,000 pounds of redried or matured tobacco from the 1931 Ontario crop was sold by the Imperial Tobacco Company of Canada to the Imperial Tobacco Company of Great Britain and Ireland.

Correspondence shows that, without reference to prices, a commission of one dollar per hundredweight was to be paid the Imperial Tobacco Company of Canada for its services in purchasing the tobacco required by the Imperial Tobacco Company of Great Britain and Ireland.

The contract form used by the Imperial Tobacco Company of Canada in all purchases of the 1932 crop of flue-cured tobacco, irrespective of whether the crop was destined for its own requirements or for the Imperial Tobacco Company of Great Britain and Ireland, was similar to the following:

IMPERIAL LEAF TOBACCO COMPANY OF CANADA, LIMITED

Delhi.

Leamington, Dec. 18th, 1932

I,hereinafter called the Seller, agree to sell to the IMPERIAL LEAF TOBACCO COMPANY OF CANADA, LIMITED, hereinafter called the Company, and it agrees to purchase from me certain and definite lots of Flue Cured leaf tobacco at prices under conditions and in estimated quantities as

herewith specified: -

20,000 lbs. at 22¢ per lb.
10,000 lbs. at 14¢ per lb.
1,500 lbs. at 5¢ per lb.
Balance lbs. at - per lb.
TOTAL - 31,500 lbs.

The Seller agrees to preserve the colour and quality of said tobacco and at no time strip and pack more than 15 per cent of same prior to delivery unless otherwise advised by representative of the Company.

The above mentioned tobacco to be delivered in - our Plant, Delhi, Ontario, perfectly sound and in good keeping order, at such time or times during the shipping season as may be designated by the Company and to be paid for upon delivery, and acceptance of same, the Company being authorized to make all cheques for proceeds to person making delivery.

The tobacco is to be graded in three grades, i.e., Sand Leaves, Bright Leaf and Red and Dark Leaf - or as follows:-

All green to be thrown out of 1500 lbs. at 5¢, handled and packed according to instructions. All tobacco to be baled in good baling paper and all GREEN, BLACK, BURNT, DEAD, FROSTED, OR OTHERWISE DAMAGED TOBACCO, AND SUCKERS to be thrown out when stripping.

[illegible]

D. O.

The Imperial Tobacco Company of Great Britain and Ireland have a subsidiary company, the British Leaf Tobacco Company of Canada, Limited, located at Chatham, Ontario, fully equipped and engaged in processing tobacco.

Tobacco purchased by the Imperial Tobacco Company of Canada for its own use and for the Imperial Tobacco Company of Great Britain and Ireland was delivered to the plant of the former company at Delhi, Ontario. All tobacco purchased for the Imperial Tobacco Company of Great Britain and Ireland

had been allotted to them in the barn before delivery was made. This tobacco was shipped from Delhi to the plant of the British Leaf Tobacco Company of Canada at Chatham, and was received there in the same condition as it had been delivered at Delhi by the growers.

Arrangements were made prior to the opening of the market to have Mr. J. R. Hutson, representative of the leaf department of the Imperial Tobacco Company of Great Britain and Ireland, come to the Norfolk tobacco district from Richmond, Virginia, on October 24th to be on hand when buying commenced on October 26th.

The above facts were confirmed from copies of correspondence between the two companies mentioned, supplied by Mr. W. Milligan, President of the British Leaf Tobacco Company of Canada, Limited, in response to a request submitted on December 14, 1932, as follows:

"Copies of all correspondence between your company and other companies buying flue-cured tobacco from growers in Ontario in 1932."

The reply of the Imperial Tobacco Company of Canada, Limited, to the same request was as follows:

"We have had no correspondence whatsoever with any other company who have to our knowledge bought flue-cured tobacco from growers in Ontario in 1932."

The Imperial Tobacco Company of Canada contended that, as the British Leaf Tobacco Company of Canada did not buy tobacco directly from growers, correspondence with that company did not come within the wording of the above request.

When the market was opened, Mr. J. R. Hutson, previously mentioned, and Mr. T. L. Lea, Manager of the Ontario Leaf Department of the Imperial Tobacco Company of Canada, travelled together through the district and supervised the buying of tobacco by that company. In this way buying "under cover" took place to the extent of 3,500,000 pounds of the 1932 crop.

A report of the Federal Trade Commission of the United States on the tobacco industry, dated December 11, 1920, contains the following provision from the anti-trust decree of the United States regarding buying tobacco

"under cover", Section 3, page 158;

"It is further ordered, adjudged, and decreed that British American Tobacco Company, Limited, and the Imperial Tobacco Company (of Great Britain and Ireland), Limited, shall not act as agent for each other, nor employ a common agent for the purchase of leaf tobacco in the United States."

It might be pointed out that the Imperial Tobacco Company of Canada is controlled by the above mentioned British-American Tobacco Company.

The previously mentioned report of the Federal Trade Commission of the United States, dated December 11, 1920, contains the following in regard to buying "under cover", Section 7, page 58:

"It is recognized that where a large tobacco purchaser buys its requirements 'under cover' through a dealer already on the market, competition is lessened and the price is affected."

The explanation offered in justification of the method of purchase, as rendered by the British Leaf Tobacco Company of Canada, a subsidiary of the Imperial Tobacco Company of Great Britain and Ireland, is as follows:

"The reason the purchases were not made by the British Leaf Tobacco Company direct from growers is because that company has not in its employ men who are qualified to buy flue-cured tobacco, nor is it possible for it to employ any such men capable of buying the types required for the trade of the Imperial Tobacco Company (of Great Britain and Ireland) as sold in the barns in Canada. It is a fact that in time and with training experienced buyers of the Imperial Tobacco Company (of Great Britain and Ireland) may be able to buy Canadian flue-cured tobacco in the barn."

The reasons advanced by the Imperial Tobacco Company of Canada for having made such purchases of tobacco for the Imperial Tobacco Company of Great Britain and Ireland were substantially the same as those rendered by the British Leaf Tobacco Company of Canada, and in addition thereto the following:

"We think it pertinent at this time to state

that the British Leaf Tobacco Company, Limited, may be said to be indirectly related to this Company. The relationship is as follows:

The British Leaf Tobacco Company, Limited, is an operating subsidiary of the Imperial Tobacco Company (of Great Britain and Ireland) Limited.

The Imperial Tobacco Company (of Great Britain and Ireland) Limited, has a substantial interest in the capital stock of the British-American Tobacco Company, Limited.

The British-American Tobacco Company, Limited, has a substantial interest in the capital stock of the Imperial Tobacco Company of Canada, Limited."

If the relationships referred to, based on an interlocking of interests through capital stock held by the companies mentioned, can be held to justify the methods pursued by the Imperial Tobacco Company of Canada in removing from the market what might otherwise have been a strong competitor, then the relationships of all tobacco companies operating in Canada might well be inquired into.

It appears that the Canadian Leaf Tobacco Company, of Chatham, Ontario, a subsidiary of the Universal Leaf Tobacco Company, of the United States, purchased about 5,000,000 pounds of the Ontario 1932 crop, chiefly for export. In this connection it was stated by a responsible authority that

"the Canadian Leaf Tobacco Company bought a large quantity of tobacco during 1932 at a very low price. They stepped into the market at precisely the correct time to make this possible, which may, or may not have been, merely very good judgment on their part."

The same party pointed out that it was generally conceded in the trade that there was a close relationship between the Canadian Leaf Tobacco Company and the Imperial Tobacco Company of Canada through the close relationship that existed between the parent companies in the United States, the Universal Leaf Tobacco Company and the British-American Tobacco Company. He added further that

"Mr. F. N. Harrison is Manager of the leaf department of the Universal Leaf Tobacco Company, while his brother, Mr. R. C. Harrison, is Manager of the leaf department of the British-American Tobacco Company, which fact in

itself is of some significance."

In the United States, the British-American Tobacco Company and the Imperial Tobacco Company of Great Britain and Ireland are compelled by law to operate separately in the purchase of tobacco, whereas in Canada, in view of the Imperial Tobacco Company of Canada's relationship to the British-American Tobacco Company, it might be said that these companies are allowed to operate together.

In regard to the purchasing arrangement between the Imperial Tobacco Company of Great Britain and Ireland and the Imperial Tobacco Company of Canada, the following comment was made by a widely experienced tobacco man;

"It is ridiculous to assume that the biggest and strongest tobacco company in the world would be unable to secure men who could satisfactorily purchase the relatively small amount of tobacco that was required by the Imperial Tobacco Company of Great Britain and Ireland from the Ontario 1932 crop."

It was his opinion that four or five buyers, such as were employed by Canadian tobacco companies, could make a good job of buying the Canadian requirements of the Imperial Tobacco Company of Great Britain and Ireland.

In the return submitted by the Imperial Tobacco Company of Canada, under date of January 4, 1933, it is stated, in regard to the arrangement with the Imperial Tobacco Company of Great Britain and Ireland,

"In our agreeing to purchase for them we feel that we are only co-operating with a related corporation."

This is a frank admission by the Imperial Tobacco Company of Canada that buying under cover was practised in the purchase of the 1932 crop.

The fact that such a procedure has been decreed illegal in the United States indicates the objectionable features of this arrangement in Canada, tending as it does to lessen competition and depress prices to the detriment of the growers. It enabled the Imperial Tobacco Company of Canada to continue to exercise what amounts to monopolistic control of the Ontario market, although purchasing less than one-third of the crop for its own use.

INCREASING IMPORTANCE OF EXPORT MARKET

There is one outstanding feature of the 1932 crop of flue-cured tobacco that has an important bearing on the whole situation and should not be lost sight of, namely, the uniformly high quality of the crop as a whole. This is acknowledged by expert judges and those qualified to express an opinion.

The 1931 crop was admittedly a good one, both as to yield and to quality. Exports from that crop to the United Kingdom, amounting to 5,423,028 pounds, had been favourably received, and had directed attention to the possibility of Canada supplying more substantial quantities of the Bright Flue-cured variety, obtained heretofore largely from the United States. The British preference of forty-nine cents per pound on Canadian tobacco over that imported from the United States was also an important factor.

The 1931 crop was harvested by the old method of cutting the stalks, the lower leaves being frequently over-ripe and the top leaves or tips somewhat green, a most objectionable feature in cigarette tobacco. On the other hand, over ninety per cent of the 1932 crop was harvested by the priming process, that is, cutting off the leaves as they ripen, and curing the same, involving in all about four primings. While this method entailed more labour and expense than the old method, it greatly increased the uniformity and improved the quality of the crop, and was responsible for an increase in its value estimated at approximately five cents per pound. Another advantage of the priming method was the fact that the uniformity of the leaf in each of the primings, which are kept separate in the barns, facilitated examination and valuation by buyers.

In confirmation of the superior quality of the 1932 crop there may be quoted the following extract from a letter dated October 5, 1932, from Mr. L. H. Reed, of the Imperial Tobacco Company of Great Britain and Ireland, to Mr. H. P. Buell, of the Imperial Tobacco Company of Canada:

"I am very much obliged for your letter of September 28th, and for the samples of Canadian leaf from the 1932 crop which you so kindly sent me. These samples are by far the best of this type that I have seen, and indicate that the crop is a good one, particularly for cigarette purposes; although I note that the samples which you sent were taken from the best crops."

The Imperial Tobacco Company of Canada is, and has been for a number of years, by far the largest buyer of leaf tobacco in Canada. More than 80 per cent of the entire flue-cured crop of 1928 was purchased by this company, and over 58 per cent of the crop of 1931. Its purchases from the 1932 crop, estimated at 29,000,000 pounds, amounted to 14,560,800 pounds, or approximately 50 per cent. This, however, includes 3,500,000 pounds bought for the Imperial Tobacco Company of Great Britain and Ireland, which reduces the proportion to about 38 per cent of the total. In addition, during 1932, the Imperial Tobacco Company of Canada sold 2,500,000 pounds of re-dried tobacco from the 1931 crop to the Imperial Tobacco Company of Great Britain and Ireland. This tobacco had to be replaced from the 1932 crop, which had the effect of making the purchases of the former company, for its own account, greater than would otherwise have been the case. Deducting the quantity purchased to replace the 1931 tobacco sold to the Imperial Tobacco Company of Great Britain and Ireland, the requirements of the Imperial Tobacco Company of Canada from the 1932 crop amounted to about 29 per cent of the entire crop.

The decline in the percentage of the total crop required by the Imperial Tobacco Company of Canada from 80 per cent in 1928 to 29 per cent in 1932 indicates the increase in the quantity of flue-cured tobacco produced in Ontario during recent years, and the rapidly increasing importance to the growers of the export market in the United Kingdom.

The Canadian Leaf Tobacco Company, a subsidiary of the Universal Leaf Tobacco Company of the United States, purchased approximately 3,000,000 pounds of the 1932 crop, or about 17 per cent. Nearly all this tobacco is destined for export to the United Kingdom. The Norfolk Leaf Tobacco Company, the Consolidated Leaf Tobacco Company, the China-American Tobacco Company, and the Windham and St. Williams Plantations export nearly all their tobacco to the United Kingdom. Fully 40 per cent of the 1932 crop has been purchased for export.

The total quantity of raw tobacco imported into the United Kingdom in 1931 amounted to 196,139,637 pounds, of which the United States supplied 157,188,102 pounds. Since Canadian tobacco has a preferential advantage of 49 cents per pound on the British market over that from the United States, it is but natural that there should be a strong and growing demand in that market for Canadian flue-cured tobacco.

DOMESTIC PRICES

The consumption of tobacco, so universal throughout the world, is regarded, more or less, as a luxury, and is therefore recognized in many countries as a suitable and convenient source from which to derive national revenue. There is some doubt as to whether this tax was originally designed to discourage the use of tobacco, or solely for revenue purposes; if for the former, it has been a pronounced failure, if for the latter, a decided success. In any event Canada derives a substantial revenue from this source, that for the year 1930 being \$42,257,519.00, and for 1931, \$42,232,582.00. The state is therefore an interested party in both production and consumption of tobacco and there is consequently entailed a responsibility to see that prices of Canadian raw leaf tobacco are reasonably consistent and in keeping with prices paid for manufactured tobacco.

While there is no duty under the customs tariff on imports of unmanufactured leaf tobacco, there is an excise tax levied, upon removal from bond, of 40 cents per pound on unstemmed leaf and 60 cents per pound on stemmed leaf. As this tax is not levied on tobacco grown in Canada, it constitutes a preference to that extent on Canadian grown tobacco on the domestic market over imported tobacco. An additional preference of 49 cents per pound on the British market over tobacco imported into that market from the United States would indicate that the position of the Canadian tobacco grower is a most favourable one and such as would ensure a profitable and stable price for his product.

Prior to and including the year 1930 this was the case. In that year the average price paid was 32 cents per pound. In 1931 the average price had declined to 20 $\frac{4}{5}$ cents, while a further reduction in 1932 brought the average down to 16 $\frac{1}{2}$ cents. The maximum price paid on the opening of the 1930 market was 40 cents, and in 1931 30 cents. This was reduced in 1932 to 24 cents, with a relatively small proportion being bought at that price.

The depreciation in the value of sterling undoubtedly affected the price in the export market. This was offset, however, to a certain extent by the improvement in quality of the 1932 crop over that of previous years. These are factors that must be considered. The manufacturers of tobacco in Canada have profited to the full extent from the decline in prices and the improvement in quality, since no appreciable reduction has taken place in the prices charged for manufactured tobacco, although there has been a decrease

of 50 per cent in the price of raw leaf tobacco since 1930. The operations of these companies are almost entirely confined to supplying the domestic market. That their business has been profitable and does not justify this reduction in leaf prices is shown by the net profits earned by the principal company operating in Canada, amounting in 1930 to \$6,512,164.18, and in 1931 to \$5,914,079.47.

The following table indicates the rate of excise on all tobacco manufactured in Canada, also that on imported raw leaf tobacco, paid when taken out of bond:

Imported Raw Leaf Tobacco, Unstemmed,	\$.40 per lb.
Imported Raw Leaf Tobacco, Stemmed,	.60 per lb.
Cigars	3.00 per M.
Cigarettes, over 3 lbs. per M.	11.00 per M.
Cigarettes, under 3 lbs. per M.	4.00 per M.
Cut Tobacco	.20 per lb.
Canadian Twist Tobacco	.20 per lb.
Snuff	.20 per lb.

The Canadian Customs Tariff on imported tobacco is as follows:

Unmanufactured Tobacco,	Free
(Subject to Excise Tax)	
Cigars	\$3.90 per lb. and 25 per cent
Cigarettes	4.10 per lb. and 25 per cent
British Preferential Tariff	3.50 per lb. and 25 per cent
Cut Tobacco	.95 per lb.
British Preferential Tariff	.80 per lb.
Manufactured Tobacco, n.o.p.; and Snuff	.90 per lb.
British Preferential Tariff	.75 per lb.

The following table indicates the duty collected on imported tobacco for the fiscal year 1932:

<u>Item</u>	<u>Lb.</u>	<u>Value</u>	<u>Duty Collected</u>	<u>Duty per lb.</u>	<u>Duty of Value</u>
Tobacco unmanufactured for excise purposes	13,075,335	\$3,861,465	\$ -	-	-
Cigars	9,623	71,838	55,489.20	5.76	77.2
Cigarettes	26,721	97,197	133,855.35	5.00	137.7
Snuff	5,745	12,451	5,170.50	.90	41.5
Tobacco, cut	201,450	427,383	191,377.50	.95	44.7
All other manufactures of tobacco	64,864	161,218	58,377.60	.90	36.2

Notwithstanding the excise tax on tobacco manufactured in Canada, the Canadian Customs Tariff on imports is sufficiently high to confine the supply for domestic consumption almost entirely to tobacco manufactured in Canada. The fact that exports of Canadian manufactured tobacco are of a negligible quantity indicates that prices in Canada for manufactured tobacco are higher than could be obtained on the export market. The constancy with which prices for manufactured tobacco is maintained in Canada is in striking contrast to the decline in prices paid for leaf tobacco during 1931 and 1932. As long as imports of leaf tobacco exceed exports of same, it is difficult to reconcile the constant price level maintained on the one hand with the decline on the other.

Imports and exports of leaf tobacco into and from Canada for the fiscal years (ended March 31st) 1930, 1931 and 1932 were as follows:

IMPORTS

1930	17,113,472 lbs.
1931	16,580,394 lbs.
1932	13,075,335 lbs.

EXPORTS

	<u>All Leaf Tobacco</u>	<u>Bright Flue-cured Tobacco</u>
1930	6,811,391 lbs.	300,000 lbs.
1931	6,051,319 lbs.	1,515,363 lbs.
1932	8,222,922 lbs.	5,529,340 lbs.

The following table indicates, for each of the three principal buyers of Ontario flue-cured tobacco during 1932, the dates of purchases, the total quantity purchased on each date, and the average price paid on each date:

Imperial Tobacco Company of Canada, Ltd.			Hodge Tobacco Co. of Canada, Ltd.		Canadian Leaf Tobacco Company, Ltd.		
Date	Pounds	Price	Pounds	Price	Date	Pounds	Price
Oct. 26	1,388,500	22.40	179,000	22.60	Oct. 26	No Purchase	
Oct. 27	1,909,400	20.90	No Purchase		Oct. 27	No Purchase	
Oct. 28	1,257,000	18.54	No Purchase		Oct. 28		
Oct. 29	218,500	16.32	121,000	19.78	to		
Oct. 31	406,200	16.04	274,000	14.54	Oct. 31	776,000	16.33
Nov. 1	217,000	16.61	475,000	14.85	Nov. 1		
Nov. 2	859,000	15.50	507,000	14.25	to		
Nov. 3	367,000	14.02	182,000	13.87			
Nov. 4	844,500	13.40	229,000	14.12			
Nov. 5	330,000	14.40	No Purchase		Nov. 5	1,708,000	13.19
Nov. 7	151,000	13.64	250,000	12.34	Nov. 7		
Nov. 8	413,500	14.58	317,000	14.54	to		
Nov. 9	363,000	14.70	67,000	13.55			
Nov. 10	511,000	15.51	21,000	09.00			
Nov. 11	155,200	15.40	No Purchase				
Nov. 12	921,500	17.57	No Purchase		Nov. 12	1,051,000	13.77
Nov. 14	50,000	18.50	No Purchase		Nov. 14		
Nov. 15	158,000	16.26	78,000	15.00	to		
Nov. 17	576,000	15.10	No Purchase				
Nov. 18	409,000	15.40	30,000	24.00	Nov. 18	273,000	16.23
Nov. 19	313,500	16.40	No Purchase		Nov. 19		
Nov. 21	578,000	18.24	No Purchase		to		
Nov. 22	791,600	16.55	133,000	17.70	Date	726,000	13.28
Nov. 23	514,600	15.36	No Purchase		(Feb. 10/33)		
Nov. 24	356,300	14.94	53,000	16.34			
Nov. 25	228,000	14.85					
Nov. 28	59,000	16.44					
Nov. 29	30,000	16.54					
Nov. 30	7,500	13.00					
Dec. 1	60,000	15.07					
Dec. 2	17,000	14.00					
Dec. 3	64,000	13.52					
Dec. 5	30,000	15.00					
Dec. 7	6,000	12.00					
	14,560,800	17.21	2,916,000	15.36		4,524,000	14.00

The principal companies operating in the purchase of the Ontario 1932 crop were the Imperial Tobacco Company of Canada, which took charge of buying the requirements of the British Leaf Tobacco Company of Canada, a subsidiary of the Imperial Tobacco Company of Great Britain and Ireland; the Hodge Tobacco Company of Canada, a subsidiary of the United States Company of the same name and buying agents for W. C. MacDonald, Inc., of Montreal; and the Canadian Leaf Tobacco Company, a subsidiary of the Universal Leaf Tobacco Company, of the United States.

Difficulties were experienced, causing delay in concluding the inquiry, through the belated arrival of statements regarding purchases made and prices paid each day during the buying season, submitted by the Imperial Tobacco Company of Canada and the Canadian Leaf Tobacco Company. The statement from the latter company was received February 22nd, and although incomplete, has been included in the above table.

The following table shows the amount of Issued Capital Stock and the Net Profits, for the periods indicated, of the companies engaged in purchasing and processing leaf tobacco in Ontario in 1932. With the exception of the Imperial Tobacco Company of Canada, none of these companies are engaged in the manufacture of tobacco.

	<u>Capital Issued</u>	<u>Net Profits</u>
<u>British Leaf Tobacco Company of Canada, Limited</u>		
For the year ended July 31, 1930	300,000.00	x6,584.67
For the year ended July 31, 1931	300,000.00	15,382.25
For the period ended April 30, 1932 (nine months)	300,000.00	15,571.18
<u>Canadian Leaf Tobacco Company, Limited</u>		
For the year ended June 30, 1930	200,000.00	51,826.51
For the year ended June 30, 1931	200,000.00	59,406.34
For the year ended June 30, 1932	200,000.00	113,506.12
<u>Consolidated Leaf Tobacco Company, Limited</u>		

Incorporated November 28, 1931.

No Financial Statement for year 1932.

	<u>Capital Issued</u>	<u>Net Profits</u>
<u>Hodge Tobacco Company of Canada, Limited</u>		
For the year ended April 30, 1930	100,000.00	x9,193.66
For the year ended April 30, 1931	100,000.00	x763.33
For the year ended April 30, 1932	100,000.00	29,593.58
<u>Imperial Tobacco Company of Canada, Limited</u>		
For the year ended September 30,		
1929	53,540,960.00	5,862,207.73
For the period ended December 31,		
1930		
Three months ended December 31		
1929		1,641,473.86
Twelve months ended December		
31, 1930	55,285,160.00	6,512,164.18
For the year ended December 31,		
1931 ⁽¹⁾	55,285,160.00	5,914,079.47
<u>Leamington Tobacco Sales Corporation, Limited</u>		
For the year ended May 31, 1930	100,000.00	x7,785.91
For the year ended May 31, 1931	100,000.00	6,629.44
For the year ended May 31, 1932	100,000.00	2,100.47

"x" denotes Loss.

- (1) Net Profits of Imperial Tobacco Company of Canada, Limited, for the year ended December 31, 1932, were quoted at the end of February, 1933, in weekly financial newspapers at \$5,471,175.00.

CONSOLIDATED LEAF TOBACCO COMPANY, LIMITED.

The above mentioned company, located at Kingsville, Ontario, and formerly known as the Moss Leaf Tobacco Company, Limited, was incorporated November 28, 1931. This company, during the growing season before the tobacco was harvested, made contracts with about one hundred growers for their entire crops. The contract form was similar to the following:

CONSOLIDATED LEAF TOBACCO COMPANY, LIMITED
KINGSVILLE, ONTARIO

No. 532

FLUE CONTRACT --- 1932 CROP

Memorandum of Contract made this day of
A. D. 1932 between of the Township of
.....)

County of Province of Ontario, hereinafter
called the Party of the First Part, and CONSOLIDATED LEAF
TOBACCO COMPANY, LIMITED, of the Town of Kingsville, County
of Essex, Province of Ontario, hereinafter called the Party
of the Second Part.

NOW THIS INDENTURE WITNESSETH AS FOLLOWS:

1. The Party of the First Part agrees to sell, and the Party of the Second Part agrees to buy at the undermentioned prices, the Flue-cured Tobacco covered by this contract, which, in the opinion of the Party of the Second Part solely, is in accordance with the following classifications and descriptions:
 - a. All sound, clear, smooth, lemon leaf, at 30¢ to 36¢, according to quality and general character.
 - b. All sound, clear, smooth, bright orange leaf, at 26¢ to 30¢, according to quality and general character.
 - c. All sound, clear, smooth, heavy orange leaf, at 22¢ to 26¢ according to quality and general character.
 - d. All sound, clear, smooth, extra heavy orange to dappled mahogany leaf, at 15¢ to 18¢, according to quality and general character.

CHARTER OF THE UNITED STATES

The first national assembly, convened at Lancaster, Pennsylvania, and formerly known as the House of Representatives, was organized on September 17, 1787. The delegates, representing the thirteen original states, met to discuss the proposed new federal government. The delegates agreed to the Constitution on September 17, 1787. The document was signed by the delegates on September 17, 1787. The document was signed by the delegates on September 17, 1787.

ARTICLE I
SECTION 1

ALL legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

Representatives and Electors in Congress shall be chosen every second Year, in the manner which shall be directed by Law.

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- e. All sound, clear, smooth, mahogany leaf, at 10¢ to 12¢ according to quality and general character.
 - f. All sound, clean, leafy, smooth, bright sand leaves, at 12¢ to 15¢, according to quality and general character.
2. All tobacco damaged through frost, wind, hail, or damaged in any way whatsoever, or which is green, ragged, worm eaten or dirty, is to be excluded entirely, and anything which, in the opinion of the Party of the Second Part solely, does not come within the above mentioned classifications and descriptions, including dark sand leaves, is to be excluded under this contract, and only to form part of it provided both parties can agree as to price.
 3. This contract includes all Flue-cured or Virginia type tobacco grown on Lot, Concession, and estimated at, acres, or/ ^{on} any other lot or concession in which the Party of the First Part has any interest whatsoever.
 4. Should total acreage be in excess of acreage mentioned in this contract, then any excess is to form part of this contract under the same terms and conditions.
 5. Tobacco is to be delivered free from mortgage, lien, or encumbrance of any kind, in good merchantable order, free from excess moisture, and when the Party of the Second Part has determined to its satisfaction the quantity and general character of the classifications, as above set out, of the tobacco so delivered, then payment will be made.
 6. Tobacco to be delivered by the Party of the First Part to the Party of the Second Part at Kingsville, or at any shipping point near location of crop that the Party of the Second Part may decide, at a date to be arranged by the Party of the Second Part, but not later than May 31st, 1933.
 7. No agent or representative of the Party of the Second Part has any authority to alter or vary this contract in any way whatsoever.

IN WITNESS WHEREOF the parties hereunto have set their hands and seals.

PARTY OF THE FIRST PART:

PARTY OF THE SECOND PART

I or We control sale of entire crop

CONSOLIDATED LEAF TOBACCO CO., LTD.

Landlord
Tenant Per
Postoffice
Telephone

There were some features of the contract that appealed to the grower, namely, the six classifications specified and the prices listed for these classifications, ranging from 36 cents to 10 cents per pound. The importance of the words "In the opinion of the Party of the Second Part, solely", was apparently not fully appreciated by the grower when signing the contract. He became quite aware of their significance, however, upon delivery of his crop.

For example, C. W. Glover, of Waterford, Ontario, contracted his crop from twenty-eight acres to the Consolidated Leaf Tobacco Company. This crop, amounting to 35,470 pounds was delivered at the Kingsville plant of the company on November 5, 1932, and was there classified under twenty-four grades. Some 3,090 pounds were accepted and paid for under the contract. A further 1,100 pounds, classified under Grade 9, was sold by Mr. Glover at the price offered. As the prices offered for the remainder of the crop were far from satisfactory to Mr. Glover, the balance, at the date of interview (December 29th), was being negotiated for by the company.

After it became known how the company was grading the tobacco delivered, a number of growers who had signed contracts refused to deliver their crops and sold elsewhere with the result that litigation ensued in some of these cases. In a number of instances, subsequent arrangements were made with the Consolidated Leaf Tobacco Company for sale at a straight price per pound.

Another case investigated was that of J. Balinsky, of Otterville, Ontario, who contracted his crop from eight acres, amounting to 9,519 pounds, to the Consolidated Leaf Tobacco Company. The crop was removed by the company to its plant at Kingsville and 1,120 pounds were accepted and paid for under the contract. A further quantity of 4,301 pounds

was accepted and paid for at prices indicated on weigh sheet (see copy), and the balance 4,098 pounds was rejected, and was being negotiated for under different arrangements.

The following is a copy of the weigh sheet received by Mr. Balinsky showing grades, quantity of tobacco in each grade, and the price for each grade:

CONSOLIDATED LEAF TOBACCO CO., LTD.
KINGSVILLE, ONTARIO

Date: November 15, 1932
Name: Joe Balinsky
Address: Otterville, Ontario.

<u>Grade</u>	<u>Pounds</u>	<u>Price per lb.</u>	<u>Dollars</u> <u>Cents.</u>
A	33	.30	9.90
B	196	26	50.96
C	205	22	45.10
D	220	15	33.00
E	177	10	17.70
F	289	12	34.68
No. 9	794	14	111.16
No.10	1,041	08	83.28
No.11	418	06	25.08
No.12	172	07	12.04
No.15	1,527	08	122.16
No.19	40	07	2.80
No.20	309	06	18.54
	<u>5,421</u>		<u>\$566.40</u>

Consolidated Leaf Tobacco Co., Ltd.

Weights and Prices
Approved and Accepted

(Signed) .E. S. Hogan

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The following circular letter, received by Mr. Balinsky, was sent by the Canadian Leaf Tobacco Company, Limited, of Chatham, Ontario, to those growers, of whose tobacco a quantity had been rejected by the Consolidated Leaf Tobacco Company, after being delivered according to contract:

CANADIAN LEAF TOBACCO COMPANY, LIMITED
CHATHAM,

December 13, 1932

Dear Sirs:-

According to information received from the Consolidated Leaf Tobacco Company, Kingsville, you have contracted your 1932 crop of flue-cured tobacco to that company.

There have been a number of people who have offered their crops to us, even though they were contracted to the above mentioned company, and we wish to advise that unless we are furnished with a statement from the Consolidated Leaf Tobacco Company, Limited, certifying that they have released said crop, we do not desire to purchase same.

We have been informed further that in numerous cases there is a considerable quantity of tobacco that falls in quality below the minimum price of 12¢ (we understand that the prices range from 12¢ to 36¢ per pound), and in this connection we wish to state that in the case of these rejects and culls, we shall be very pleased to purchase them from you, and if you will care to deliver them to our factory at Chatham we will do our utmost to pay you a fair price.

The above applies strictly to tobacco which the Consolidated Leaf Tobacco Company considers not good enough to warrant their paying minimum contract price, viz: 12¢ per pound.

Yours very truly,

CANADIAN LEAF TOBACCO COMPANY, LIMITED

(Signed) C. L. O'Brien,

VICE-PRESIDENT.

The operations of the Consolidated Leaf Tobacco Company, although on a comparatively small scale, helped materially to increase the discontent and dissatisfaction on the part of the growers with the marketing of the 1932 crop. The methods of purchase employed by this company enabled it to keep its prices at a level below those paid by other companies after the market opened. As a result of its operations, however, the Consolidated Leaf Tobacco Company could not be charged with being a party to a combine.

SUMMARY

In the foregoing pages a brief outline has been attempted as to the object and subject matter of this inquiry, with a view to determining whether or not a combine existed as alleged among the several companies operating in the purchase of flue-cured tobacco in the Province of Ontario during 1932.

Some difficulties have arisen in determining the line of demarcation between what might be regarded as legitimate business and what might be an infringement of the Act relating to combines. It is, therefore, quite possible that this inquiry may, in some respects, have been carried beyond this line, and may not have reached it in others.

It is generally supposed that where active competition prevails there are but little grounds on which to base suspicion of a combine. On the other hand, where competition does not prevail to a reasonable extent, or where by any means competition is lessened or eliminated, there are strong reasons for assuming that a combine is in operation. In the case in review there is a complete absence of any semblance to an organization of any kind on the part of the tobacco growers for an orderly marketing of leaf tobacco, except in the case of a few companies or syndicates growing tobacco on a large scale. The absolute dependence of the growers on the tobacco companies under these circumstances entitles them to open and above-board treatment and a fair price for their product. That the confidence heretofore placed in the tobacco buyers no longer exists is evident from the allegations made and the demands for an investigation, and further, from the steps taken in the movement now under way to form a co-operative marketing organization to process and dispose of future crops.

Reference has already been made to the unanimity of the tobacco companies which featured the delay in beginning buying operations, to the absolute secrecy which was maintained as to the time of opening the market, and to the inevitable effect on the morals of the growers, making them easy victims for the methods pursued whereby many crops were purchased for less than half the price paid for others.

The long delayed opening of the market which took place on October 26 had the appearance of collusion in deferring the time of buying, as the principal buyers were

in the field almost simultaneously on that date. The approximate average of prices paid from day to day from the date of opening the market until November 7, when the average price had decreased to about one-half the average of the first day's purchases, together with the fact that an increase took place in prices paid from that date until November 21, when the prices were nearly as high as the average at the opening of the market, although the best quality of tobacco is usually purchased first, also suggested an understanding among buyers which was operating against the interests of the tobacco growers.

Information as to the operations of the tobacco companies was obtained through personal interviews with the growers and with officials of the various companies, also from returns submitted by the companies in response to requests made for certain information under the authority of Section 14 of the Combines Investigation Act. Correspondence between companies was a particularly important source of information, one remarkable feature of such correspondence being the absence, with one notable exception, of any reference to prices of raw leaf tobacco.

The fact that prices prevailing in Canada generally determine the price paid on the export market for Canadian tobacco has an important bearing on the whole question that must be taken into consideration. It would appear, from copies of correspondence furnished, that British tobacco manufacturers were kept well informed as to the quality and prospective yield of the Ontario 1932 flue-cured crop, in which they had shown an early interest as a result of the satisfactory quality of imports of the 1931 crop.

In confirmation of the foregoing, the following extracts from correspondence may be submitted:

A letter from the Leamington Tobacco Sales Corporation, Limited, Leamington, Ontario, under date of August 4, 1932, to Gallagher, Limited, Belfast, Ireland, contains the following:

"From information which we have received which seems to be quite reliable, the British Leaf Tobacco Company of Chathan will be in the market for five million pounds of flue-cured tobacco this year. Last year they handled about one million pounds as an experiment which seems to have proven satisfactory."

The following extract from a letter, referred to elsewhere, written by Mr. H. P. Buell, Vice-President of the Imperial Tobacco Company of Canada, to Mr. R. C. Harrison, of the British-American Tobacco Company, dated August 22, 1932 is most significant:

"I will be visiting the southern market next week and the week following. I will make it a point to see Mr. Reed, and I hope that he will let me know if the buying of their Canadian requirements will be entrusted to me . . . I have heard that several of the independent English manufacturers have already placed their orders with local Ontario dealers for purchases from the new crop."

These letters indicate that the Imperial Tobacco Company of Canada, as well as other companies, was aware two months in advance of the opening of the Canadian market that a number of British manufacturers would be in the market for Canadian tobacco. This is in rather striking contrast to the statement received from the Imperial Tobacco Company of Canada in response to a request for an explanation as to the delay in opening the Canadian market in 1932 (see section of this report entitled "Holding Off the Market"). In an interview which I had with Mr. H. P. Buell on February 27 he stated that his company's holding off the market in October last was due to the arrangements they were making to find out how much the Imperial Tobacco Company of Great Britain and Ireland intended to purchase from the 1932 crop.

It appears to have been known to the trade early in August that the British Leaf Tobacco Company, which is a subsidiary of the Imperial Tobacco Company of Great Britain and Ireland, would be in the market for a substantial quantity of tobacco. It is also evident from Mr. Buell's letter to Mr. Harrison that the Imperial Tobacco Company of Canada was apparently desirous of having the buying of this tobacco entrusted to them.

That this was done is acknowledged in a statement received from Mr. W. Milligan, President of the British Leaf Tobacco Company, located at Chatham, Ontario, where this company has a modern processing plant. It might be mentioned that the British Leaf Tobacco Company has maintained for a number of years a competent buying organization for the purchase of Burley tobacco in Ontario. In response to questions submitted in this investigation under date of December 12, Mr. Milligan states, in a letter

dated December 24:

"We bought about 3,500,000 pounds from the 1932 crop. The Imperial Tobacco Company of Canada bought for us on a commission basis. All tobacco was allotted to us in the barn before delivery was made. The average price paid for this tobacco was 16.81 cents per pound."

The Imperial Tobacco Company of Canada, by this arrangement, not only kept out of the market what might otherwise have been a competitor, but received a commission of \$35,000 on the transaction.

There is evidence that the delay in opening the market was not only unnecessary, but had the effect of adversely influencing the price and was against the interests of the growers. The responsibility for this delay, however, cannot be placed entirely on the Imperial Tobacco Company of Canada, notwithstanding the apparent existence of an unwritten law permitting that company to open the market and set the opening price.

The arrangement made by the Imperial Tobacco Company of Great Britain and Ireland with the Imperial Tobacco Company of Canada, by which their requirements were purchased under a contract between the latter company and the growers, was in itself sufficient to arouse suspicion and to justify the action taken by the applicants in calling for an investigation into the charges of collusion for the purpose of lessening competition among buyers. The large surplus of tobacco grown in 1932 over the requirements of Canadian tobacco manufacturers had an influence on marketing conditions that must be recognized. When the buying of leaf tobacco finally began the tobacco growers with the exception of a few of the companies or syndicates growing tobacco on a large scale were absolutely without any facilities of their own by which their tobacco would be taken care of and marketed. As a consequence they were wholly dependent on the tobacco manufacturers both in regard to time of buying and prices. The tobacco manufacturing companies, having a knowledge of the quantity of tobacco to be sold and also what quantity would be required by them for manufacture in Canada, apparently took extra precautions to safeguard themselves by offering very low prices for their requirements, looking forward to the possibility of there being a large surplus of tobacco in the growers' hands after their requirements had been met, which surplus might eventually

be sold at very low prices.

It is quite obvious that the control of this surplus by the tobacco growers, together with an orderly and systematic method of marketing the same, is most important; and would place the tobacco grower in a more secure position by which he would be enabled to exercise some reasonable degree of control over the price not only for domestic purposes but also for export as well, and assure him a fair market price for his tobacco.

All of which is respectfully submitted,

Yours faithfully,

(Sgd.) Donald Sutherland

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